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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/024,507	12/21/2001	Donald E. Bobbitt	42072	2198

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EXAMINER

YIP, WINNIE S

ART UNIT PAPER NUMBER

3637

DATE MAILED: 12/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/024,507

Applicant(s)

BOBBITT, DONALD E.

Examiner

Winnie Yip

Art Unit

3637

*NW*

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 15 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing-sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

***Part II DETAILED ACTION***

This office action is in response to applicant's amendment filed September 15, 2004.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

***Response to Amendment***

1. The amendment filed September 15, 2004 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: “a **rigid** first/second cableway(s)” (claims 1 and 19), “**rigid** cableway” (claims 10 and 16). The new matter has not been treated on the merits. Applicant is required to cancel the new matter in the reply to this Office Action.

***Claim Objections***

2. Claims 3-10 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. These claims fail to depend upon to claim 2 which was canceled. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

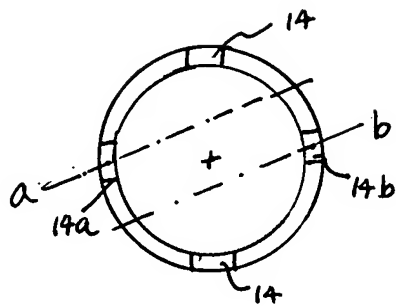
As better understood, these claims have been treated on the merits as dependent on claim

1.

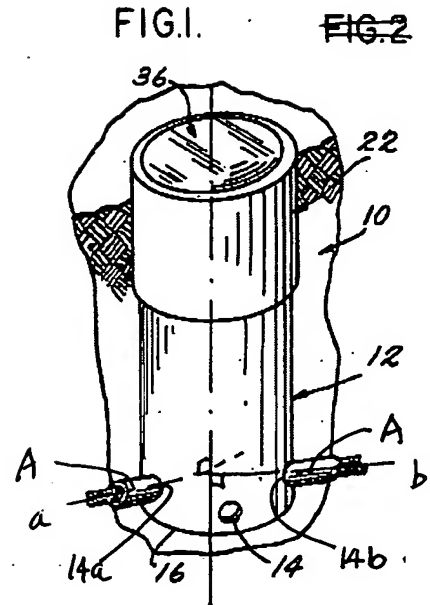
***Claim Rejections - 35 USC § 102***

3. Claims 1, 3-7, 10-11, 13-14 stand rejected under 35 U.S.C. 102(b) as being anticipated by White (US Patent No. 5,156,454).

White shows and discloses a light fixture foundation comprising: a hollow shaft (12) having a tubular wall extending inherently along a central longitudinal axis, a plurality of cableway openings (14) extending through the tubular wall along axes substantially perpendicular to the central longitudinal axis, wherein the cableway openings (14) being located substantially in a same lever but laterally spaced from each other, at least two cableway openings (14a , 14b) extending through the tubular wall along a first axis (a-a) and a second axis (b-b) which are considered to disposed on diametrically opposing sides of the hollow shaft and are substantial parallel to each other which are non-coaxial as claimed (see Fig. 1 shown bellow), at least two cableways (A) supporting electrical wiring (18, 40) and being received in the respective cableway openings, said cableways being substantially at a same vertical lever such that the cableways are positioned co-planar with respect to each other (see Fig. 2), and a support member (22) for supporting a lighting assembly (30) coupled to the shaft, said support member having a passageway (26) in communication with the hollow shaft to receive the cableways such that the cableways can be extended through the passageway without interfering each another. Notice, the cableways are inherently “rigid” than the wires (18) for guiding the wires (18) thought the opens



(EXHIBIT A)



*Claim Rejections - 35 USC § 103*

4. Claims 1, 3-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hubbell Power system, Inc. (see Lighting Foundations, CHANCE, Bulletin 2-9705) in view of Gagliano (US Patent No. 5,039,256).

Hubbell Power Systems, Inc. (see attachment) teaches installing on site a lighting fixture foundation comprising a method of excavating a trench (a) having a depth and a width sufficiently receiving the lighting fixture foundation, the lighting fixture foundation comprising an elongated hollow shaft (b) having cableway openings (c) being precut to extend through diametrically opposite surfaces of the tubular wall of the shaft (see the previous page of the attachment), wherein the cableway openings are aligned in a same lever, an anchor (d) at the lower end of the hollow shaft for driving and supporting the hollow shaft through the bottom the trench into the ground, a support member being a base plate (e) fixed to an axial upper end of

Art Unit: 3637

the shaft, the base plate having notches (f) to receive bolts (g) for releasably supporting a lighting assembly thereon, the support member having a passageway (h) in communication with the hollow shaft such that cableways (i) are extended through the cableway openings (c) in opposite directions and through the passageway of the support member to the lighting assembly.

Wherein, Hubbell Power System teaches the lighting fixture foundation being installed by obvious alternative steps of excavating a trench in suitable depth and width, anchoring the hollow shaft in the trench by a hydraulic rotary equipment, placing cableways supporting electrical wiring in the trench on opposite sides of the shaft, inserting the cableways into the cableway openings and extending upward through the passageway of the support member, mounting a lighting assembly being coupled to the support member, and connecting the electrical wiring of the cableways with the lighting unit supported by the light support. Hubbell Power System does not specifically define the hollow shaft having the cableway openings formed on the diametrically opposite surfaces of the hollow shaft being not co-axial such that the cableways are laterally spaced from each other as claimed for receiving cables being substantially perpendicular to the longitudinal axis of the hollow shaft and extending spaced apart without interfering with one another. First, the foundation of Hubbell Power System teaches the hollow shaft having the cableway openings (c) formed on diametrically opening sides of the shaft, and the opposite sides cableway openings having axes would inherently located laterally spaced from each other. Second, Gagliano teaches a foundation to be anchoring in ground, comprising a hollow shaft having a tubular wall (1) extending along a central longitudinal axis, a plurality of openings (4 or 5) extending substantially perpendicular to the central axis of the hollow shaft, wherein the openings include a first opening and second opening

Art Unit: 3637

disposed on diametrically opposing sides of the hollow shaft, the first and second openings are substantially parallel and are non-coaxially laterally spaced each other for preventing the inserted tubular members (2) being interfered with one another. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the light fixture foundation of Hubbell Power System Inc. having the hollow tubular shaft precut with at least two cableway openings on diametrically opposing sides being non-coaxial and laterally spaced from each other taught by Gagliano for receiving cableways to connect wiring without interfere each other.

***Response to Arguments***

5. Applicant's arguments filed September 15, 2004 have been fully considered but they are not persuasive.

In response to applicant's argument that White does not anticipate the claimed invention because White does not disclose "rigid cableways" having centerlines disposed along the substantially parallel and non-coaxial axes as recited in both independent claims 1, 10, 16, and 19. Applicant's arguments have been fully considered but they are not deemed persuasive.

Notice, anticipation is established when a single prior art reference discloses, expressly or under principles of inherency, each and every element of a claimed invention. *RCA Corp. v. Applied Digital Data Sys., Inc.*, 730 F.2d 1440, 221 USPQ 385, 388 (Fed. Cir. 1984). It is not necessary that the reference teach what the subject application teaches, but only that the claim read on something discloses in the reference, i.e., that all of the limitations in the claim be found in or fully met by the reference. *Kalman v. Kimberly Clark Corp.*, 713 F.2d 760, 772, 218 USPQ 781, 789 (Fed. Cir. 1983), cert. denied, 465 U.S. 1026 (1984). In this case, first, the newly presented limitation of "rigid" cableways fails to have any support as originally filed and

Art Unit: 3637

is not treated on merits. In fact, the cableways (A) of Whrite's device are considered to be substantially "rigid" than the wires (18) for guiding the wires through the wall and the passageway. Second, as mentioned by applicant, White shows the light fixture foundation having holes (14) disposed around the hollow shaft (12) at different positions aground the surface of the hollow shaft. Due to the diametrical shape, the adjacent holes (14) of White are considered disposed on diametrically opposing sides and laterally spaced from one another since the hollow shaft is circular in shape, and the adjacent holes (14) which is disposed at 0° and 90°, or 90° and 180° are considered to have axes being non-coaxial (see EXHIBIT A shown above) but disposed co-planar (the axes are perpendicular to each other in same level. See Figs. 1 and 4) as claimed. In addition, applicant only recites "the cableway opening extending through the tubular wall along a first/second axis", technically, an opening is not necessary to be a "circular" but would any other shapes, so the axis would be located anywhere within the opening, and directs to any directions (See illustration show in EXHIBIT A). Since applicant does not specifically define where are the first and second axes located along the cableway openings and how the axes disposes as relative to the openings, the opposing openings (14a, 14b) of White's device are considered to have first and second axes (a, b) through the wall and parallel and non-coaxial to each other as broadly read on the claims. And, the cableway (A) inherently has a centerlines disposed along the axes as claimed. Further, White teaches the openings being used for separately positioning the cableways in different positions which solves the same problem of preventing the cableway interfering each other as claimed invention. So White's device is considered to broadly read on the claimed invention.



6. In regard to applicant's argument that there is no suggestion to combine the references of Hubbell Power system, Inc. with Gagliano, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). A motivation to combine the teachings in the prior art may "come from the nature of a problem to be solved, leading inventors to look to references relating to possible solutions to that problem." *Pro-Mold*, 75 F.3d at 1573. In assembling the references for consideration, a certain amount of hindsight is always required in that it is necessary for the examiner to analyze the claimed invention, discover the relevant prior art, determine the differences between the nearest prior and the claimed invention, and decide whether these differences are taught in the prior art, *Graham v. John Deere Co.*, 383 US 1, 86 S.Ct. 684, 148 USPQ 459 (1966). Such hindsight is not objectionable so long as the examiner, ultimately, employs only knowledge found in the prior art in formulating his conclusion of obviousness. See *In re McLaughlin*, 58 CCPA 1310, 443 F. 2d 1392, 170 USPQ 209 (1971). It is submitted, that the references taken together are clearly suggestive of the claimed invention for the reasons ably set forth above. This is all that is required to support a prima facie legal conclusion that the claimed invention would have been obvious to one of ordinary skill in the art. *In re McLaughlin*, supra. In this case, first, Hubbell Power system, Inc. and Gagliano, both teach a same art of a foundation device having a hollow shaft and having openings formed through the wall for insertion of tubular member therethrough. Second, the

Art Unit: 3637

reference to Gagliano is only used as a teaching reference to teach the hollow shaft may have opens (4) extending through the wall of the hollow shaft, the opens inherently provides axes such that the opens are located on diametrical opposing sides of the shaft to have axes parallel to and laterally spaced from each other for receiving tubular members therethrough. The recitations with respect to the manner in which a claimed apparatus is intended to be employed such as what is receive in the opens does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. Ex parte Masham, 2 USPQ2d 1647 (1987).

Therefore, the rejections are deemed proper.

***ACTION IS FINAL***

Applicant's amendment necessitated the new grounds of rejection. Accordingly, THIS ACTION IS MADE FINAL. See M.P.E.P. ' 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. ' 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. ' 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

***Inquiry Contacts***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Winnie Yip whose telephone number is 703-308-2491. The examiner can normally be reached on M-F (9:30-6:30), Second Monday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

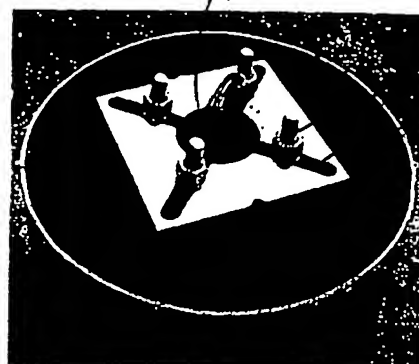
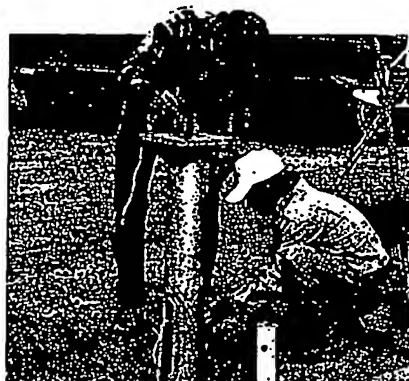


Winnie Yip  
Primary Examiner  
Art Unit 3637

# Economical, No Site Preparation, Versatile

## BEST AVAILABLE COPY

Be more profitable and meet your customers' concerns. Immediacy of low-cost installation delivers a total product with performance that builds your reputation.

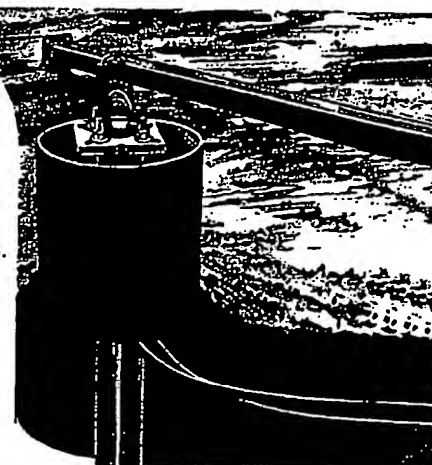


**S**pecifically designed for above-grade and on-grade mounting of parking-area/site lighting standards, these non-extendable foundation anchors have high-strength pipe shafts to resist bending moments and substantial installing-torque ratings. They often can be installed through macadam surfaces.

### One-trip convenience cuts costs and saves time!

For immediate installation of a luminaire foundation, a steel anchor screws in place by hydraulic rotary equipment mounted on common construction vehicles. For quick-wiring, a cableway is precut in the pipeshaft.

This pre-engineered system is based on more than 80 years of earth-anchor research and development by ISO 9001-certified manufacturer A.B. Chance Company, Centralia, Missouri, which also markets to electric utilities, telecommunications and pipeline industries worldwide.



Select from three lengths (5-, 8- or 10-ft.) in two sizes:

- 6 $\frac{5}{8}$ -inch O.D. Shaft with 12-inch diameter Helix or
- 8 $\frac{5}{8}$ -inch O.D. Shaft with 14-inch diameter Helix

Selections listed at right are with variable bolt-circle base plates. Bolts, nuts and washers are included. For other combinations of bolt circles, base plates, shaft sizes and lengths, consult factory or your distributor.

Maximum installing torque ratings: 6 $\frac{5}{8}$ " O.D. shaft rated for 15,000 ft.-lb.  
8 $\frac{5}{8}$ " O.D. shaft rated for 20,000 ft.-lb.

### Specifications for all foundations listed below include:

- 1 in. x 12 in.-square Base Plate with 4-bolt variable Bolt Circle\*
- Four 1 in. x 4 in. Grade 5 Carriage Bolts with nuts and washers
- 2 $\frac{1}{2}$  in. x 18 in. Cableway on shaft • All hot-dip galvanized to ASTM A153

Foundation Overall Length	Catalog Number		Distance from Bottom of Base Plate to Top of Cableway
	6 $\frac{5}{8}$ " Shaft, 12" Helix, '8"-14" B.C.	8 $\frac{5}{8}$ " Shaft, 14" Helix, '9 $\frac{1}{2}$ "-14" B.C.	
5 feet	T112-0563	T112-0566	18 inches
8 feet	T112-0564	T112-0567	48 inches
10 feet	T112-0565	T112-0568	48 inches

# over Install, Even Through Pavement

To place an elevated light standard:  
Halt penetration of the foundation at the proper depth to achieve the base height desired. After feeding the power conduit through the cableway and out the baseplate, a tube-type form may be used to encase the exposed shaft in a poured-concrete barrier, as with other methods.

Quick and easy, installation by the same equipment as other methods

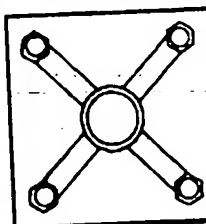
To place a light standard on grade, simply drive the foundation to full depth. Then excavate to the cableway in the side of the foundation and insert the power conduit up through the baseplate.

openings on opposite sides



Made for mounting in minutes, to match popular base designs

Typical above-grade example: 6 $\frac{5}{8}$ -inch x 10-ft. foundation is designed for loads of a 39-ft. standard with four shoebox fixtures. Performance meets or exceeds concrete foundations.



Variable bolt-circle baseplate

For fast bolt-up, slotted baseplate mates with most light standards.

Often installs in 10 minutes, with the pole up in less than an hour!

Without excavating to depth, a Chance foundation anchor can be driven through most soils and blacktop surfaces. The welded spiral plate (a true helix) acts as a screw thread during installation and a load-bearing member in place. Installation compacts the surrounding soil but does not remove any significant volume below grade.

By design, the foundation resists all associated loads: Wind, compression, uplift. If required, the foundation can be withdrawn by the same method as installed and reused.

To readily adapt equipment already used for placing this type of lighting, select from tools below based on torque requirements and limitations.

## Installing Tools

Catalog No.	Max. Torque	Weight
C303-0139	10,000 ft.-lb.	18 lb.
C303-0684	20,000 ft.-lb.	30 lb.

For attachment to a torque motor directly or via a torque-indicating device, 10,000-ft.-lb. tool has 5 $\frac{1}{4}$ " bolt circle (B.C.) for six 1 $\frac{1}{2}$ " bolts; the 20,000-ft.-lb. tool has a 7 $\frac{5}{8}$ " B.C. for twelve 5 $\frac{1}{8}$ " bolts.

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